WATER-RELATED LEGISLATION OF THE 1995-1996 TERM OF THE GEORGIA GENERAL ASSEMBLY

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Abstract. Although the number of water-related bills considered by the General Assembly during the 1995-1996 legislative term was limited, the ones that did receive action were high profile and controversial. Major bills included ones relating to wastewater discharges in the metropolitan Atlanta region, stream turbidity, and solid waste management. The controversial nature of these bills may serve as a prelude to legislation facing the next term of the General Assembly. Resolution of issues relating to apportioning water with Alabama and Florida, managing coastal ground water, establishing total maximum daily loads of pollutants for streams, and participating in the federal coastal zone management program will fundamentally alter how water is managed in Georgia.

INTRODUCTION

The 1995-1996 term of the Georgia General Assembly saw relatively few water-related bills and resolutions but some of the legislation was very significant and high profile. In fact, in both the 1995 and 1996 sessions, water-related legislation was among the most controversial considered, especially bills dealing with wastewater discharges in the metropolitan Atlanta area, stream turbidity, and solid and hazardous waste management.

Metro-Atlanta Wastewater Management Issues

During the 1996 session, there were two major issues relating to wastewater in the metropolitan Atlanta area. The first issue involved Forsyth County's proposal to discharge treated wastewater in the Etowah River (HB 1504). Since the water originated in the Chattahoochee Basin, this would be an interbasin transfer of the treated wastewater into one of the more pristine systems in the state. Although the legislation did not pass, the issue was, at least temporally, resolved with an agreement to allow the county to discharge the wastewater in the Chattahoochee, reducing the capacity reserved for the City of Atlanta by the same amount.

The second wastewater issue in the 1996 legislative session related to the slow progress made by the City of Atlanta in addressing its discharge problems, both from combined sewer overflows (CSOs) and wastewater treatment plants.

Combined Sewer Overflows

Combined sewers carry both sanitary sewage and storm water runoff in the same pipe. Combined sewers were built at the turn of the century and are commonly found in most older major cities. During storm events, the water in combined sewer pipes may exceed the pipes' capacity, causing water to overflow at some point in the system. In February 1990, the Georgia General Assembly enacted legislation to amend the Georgia Water Quality Control Act, which required all cities in Georgia with CSOs to either eliminate them or to provide treatment of the overflow to meet water quality standards.

In 1996, concern was evident in the General Assembly that Atlanta was not adequately addressing the CSO problem. Senate Bill 500 was enacted and requires that any municipality that failed to implement a plan approved by the Environmental Protection Division (EPD) by December 31, 1995 and that has CSOs discharging into the Chattahoochee River, is required to pay $10,000 per day for each overflow system until construction is completed. The penalty increases to $100,000 per day if construction is not completed by specified dates. A sewer connection moratorium is also imposed.

According to information provided by the City of Atlanta, in November 1996, the city has 10 CSO sites; eight of which meet current standards (Hill, 1996). Six of the sites now have treatment facilities or receive treatment after storage. Sewer separation was the approach used to bring the other two sites into compliance. Two sites (Utoy Creek and Clear Creek) are not completed, but construction has begun.

- The Clear Creek CSO is currently under construction. The treatment plant should be in operation by the third quarter of 1997.

- Separation of the sewers in the Utoy Basin began in November 1995. This project is expected to be completed by 1998.

Atlanta's Phosphorus Discharges into the Chattahoochee River

Senate Bill 500 requires the holder of a wastewater discharge permit who fails to complete required phosphorus reduction improvements by July 4, 1996, to submit to EPD a schedule stipulating annual construction milestones for the completion of all improvements required to achieve a 0.64 milligram per liter discharge level by January 1, 2001, and prohibiting such a discharge after February 1, 1997. Penalties for noncompliance include monetary fines as high as $100,000 per day and a sewer connection moratorium.

Following its decision to abandon the original phosphorus control plan in favor of one deemed acceptable by the Mayor, City Council and city residents, the City of Atlanta entered into a Consent Order with EPD, which called for the city to:

- meet a phosphorus limit of 0.75 mg/l or less beginning July 4, 1996 and each month thereafter through January 1997;
- agree to abide by a sewer moratorium prohibiting sewer connections or increase in flow from existing connections for failure to meet the 0.75 mg/l limit;
- pay stipulated penalties for failure to achieve monthly phosphorus average concentration of 0.75 mg/l or less;
- meet a monthly phosphorus concentration of 0.64 mg/l or less by February 1, 1997; and
- pay penalties beginning February 1997 for failure to achieve 0.64 mg/l or less.

The City of Atlanta has implemented a three-fold approach to meeting the phosphorus requirement which includes:

1. Interim improvements to help meet the limits in the short term by reducing the level of phosphorus discharged;
2. Long-term capital improvements to ensure the city consistently meets current and future limits; and
3. Increased operational efficiency and operational assistance to ensure city employees effectively utilize equipment and facilities to maximize performance and meet compliance.

Since June 1996, the city has consistently maintained a phosphorus level less than the required 0.75 mg/l. Until the city meets all the requirements stipulated in SB 500, it continues to pay daily fines of $20,000.

Stream Turbidity

The 1989 amendments to the Georgia Erosion and Sedimentation Act added an enforceable turbidity standard of 50 NTU (nephelometric turbidity units). Concern over the inability of those involved in construction-related land-disturbing activities to meet this standard mounted, culminating in the creation of a Senate study committee in 1993. The study committee recommended that the Georgia Board of Regents create a scientific panel to evaluate this standard and to make recommendations for an appropriate instream standard. The scientific evidence available suggests that when long-term NTU levels surpass 25 NTU, biotic communities are adversely affected (Scientific Panel, 1995). Most Georgia streams have long-term NTU levels well below 25 NTUs. The scientific panel thus recommended that this level be adopted. (The 25 NTU figure identified by the scientific panel is not comparable to the 50 NTU standard in the law. The 50 NTU standard compared runoff from a site to upstream turbidity levels. The panel's figure is for a watershed or stream segment based on long-term monitoring.) The problem with a site specific NTU level is that it may be unattainable using the technologies and practices generally employed today. Both the Senate study committee and the scientific panel called for the creation of a second committee to review these technologies and practices to see how they can be altered to provide greater protection of streams from erosion and sedimentation. This second committee is currently carrying out its mission.

During the 1996 legislative session, House Bill 1788 was passed that requires the Board of Natural Resources to establish a water quality standard for turbidity for all waters of the state. The standard will apply to streams rather than to particular discharge points and will, consequently, apply to all activities affecting turbidity, not just to those land disturbing activities currently subject to the Erosion and Sedimentation Act. This will include such activities as agriculture, forestry, mining, wastewater treatment plant discharges, dredging and stream bank erosion. According to HB 1788, the Board of Natural Resources must adopt the standard by April 1, 1997.

Solid and Hazardous Waste Management

In both the 1995 and 1996 sessions, solid waste issues were high profile. The debate, however, tended to focus on facility siting rather than management issues. SB 32, which passed during the 1995 session, placed limitations on the number of solid waste handling facilities that can be located in an area. The focus of this debate was the south part of Atlanta where a number of landfills are located and dealt

specifically with the expansion of the Live Oak landfill owned by WMX, Inc.

House Bill 148 was introduced in 1995 to address some specific concerns with the Comprehensive Solid Waste Management Act relating to the sun setting of the Recycling Market Development Council and unconstitutional language dealing with out-of-state waste. The bill was caught in the controversy surrounding SB 32 and held over to the 1996 session. During the interim, EPD took the lead in pulling a committee together to develop a comprehensive set of amendments to the Act. The efforts of this committee resulted in a Committee Substitute to HB 148 in the 1996 session which passed both houses. The Governor, however, vetoed the bill due to what he felt was unconstitutional language that had been added relating to specific landfill sitings.

Table 1. Water-Related Legislation of the 1995 Session of the Georgia General Assembly

Bill Number/Purpose
SB 375; Act 14 Authorizes the director of EPD to substitute a requirement of best management practices for numeric effluent limits in permits for the discharge of pollutants; requires best management practices in land disturbing activities and provides that adherence to such practices shall constitute a defense to an allegation of noncompliance with the terms of certain permits; provides for a reduced buffer of 25 feet along certain trout streams for the construction of single-family dwellings.
HB 389; Act 303 Provides theat the Coastal Marshlands Protection Committee shall be authorized to approve the lease of state owned marshlands or water bottoms for marinas or large docks; provides conditions and fees for such leases and exemptions from such provisions.
SB 32; Act 454 Prohibits the permitting of certain solid waste handling facilities within geographic areas containing certain similar facilities; restricts the land application of sewerage sludge in certain areas; prohibits the permitting of landfills in the proximity of certain bombing ranges.
SB 385; Act 441 Extends certain exemptions from the Georgia Safe Dams Act of 1978.

HB 1227, known as "Brownfields" legislation, provides for a limitation of liability for those who purchase property contaminated by a hazardous substance and return it to usefulness.

CONCLUSIONS

The high profile, controversial water issues debated during the 1995-1996 Term of the Georgia General Assembly may be a prelude to the next legislative term. Resolution of the water issues currently facing the state will fundamentally alter how water will be managed in Georgia. These issues include the formation of river basin compacts with Alabama and Florida to apportion water from the Apalachicola-Chattahoochee-Flint River Basin and the Alabama-Coosa-Tallapoosa River Basin; development and adoption of a ground water management strategy for coastal Georgia, development and adoption of a plan to establish total maximum daily loads (TMDLs) of pollutants for Georgia streams; and participation in the federal Coastal Zone Management program.

Table 2. Water-Related Legislation of the 1996 Session of the Georgia General Assembly

(Bill Number/Purpose)
SB 500; Act 1042 Establishes schedules for correcting combined sewer overflow systems and phosphorous reduction facilities operated by the City of Atlanta; provides for penalties for failure to meet such schedules; increases the penalties for continuing to operate combined sewer overflow systems.
HB 1227; Act 921 Provides for limitation of liability for persons who purchase and return to usefulness property contaminated by a release of hazardous substance.
HB 1442; Act 929 Provides that certain regulations regarding antifreeze will apply to recycled antifreeze processed in Georgia and so labeled; provides for standards for recycled antifreeze.
HB 1788; Act 615 Provides the Board of Natural Resources with the authority to promulgate regulations governing the discharge of pollutants into waters of the state; specifically address turbidity.

LITERATURE CITED

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